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EXHIBIT No. 1

COMMONWEALTH OF KENTUCKY

OPINION RENDERED: FEBRUARY 6, 1976

[Seal]

SUPREME COURT OF KENTUCKY
File No. 73-997

THOMAS W. AHLMAN &
CAROL ANN AHLMAN, Husband & Wife

v.

CHRISTOPHER DURBIN, et al.

Appeal from Jefferson Circuit Court
Action No. 140597

MANDATE—Received March 11, 1976

The Court being sufficiently advised, delivered herein an opinion per curiam, and it seems to them there is no error in the judgment herein.

It is therefore considered that said judgment be affirmed; which is ordered to be certified to said court.

It is further considered that the appellee recover of the appellant its cost herein expended.

(s) Martha Layne Collins
Clerk

A Copy—Attest:
Issued March 9, 1976 By_____, D.C.

SUPREME COURT OF KENTUCKY

RENDERED: FEBRUARY 6, 1976

73-997

THOMAS W. AHLMAN and
CAROL ANN AHLMAN, Husband and Wife - *Appellants*

v.

CHRISTOPHER DURBIN, ET AL. - - - *Appellees*

Appeal from Jefferson Circuit Court
Common Pleas Branch, Fifth Division
Honorable Raymond C. Stephenson, Judge
CR 140597

MEMORANDUM OPINION PER CURIAM—AFFIRMING

Ahlman appeals from summary judgment of the trial court dismissing complaint on the basis of sovereign immunity.

Ahlman was injured by a bullet fired by either a county police officer or a felon who was fleeing arrest at the time of an exchange of shots. Suit was filed against the individual police officer, the county, and various county officials in their official capacity. A motion for summary judgment was sustained as to all parties.

Officials of the county, acting in their official capacity, all fall within the protection afforded by the doctrine of sovereign immunity.

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Cf. Cullinan v. Jefferson County, Ky., 418 S. W. 2d 407 (1967); Moores v. Fayette County, Ky., 418 S. W. 2d 412 (1967).

The issue of sovereign immunity extending to the police officer was not properly preserved for appellate review.

The judgment is affirmed.

All concur.

Attorney for Appellants:
MARTIN F. SULLIVAN, JR.
1675 Story Avenue
Louisville, Kentucky 40206

Attorneys for Appellees:
EUGENE MOSLEY
412 Kentucky Home Life Building
Louisville, Kentucky 40202

EXHIBIT No. 2

Notice-Motion-Order of Defendant for Summary Judgment, filed in Clerk's Office September 26, 1973, is as follows, to-wit:

To: Mr. Martin F. Sullivan, Jr.
1675 Story Avenue
Louisville, Kentucky 40206
Counsel for plaintiffs

Please take notice that on Monday, October 1, 1973, at 11 a.m. in the court room of the above Court, the defendants will make the motion and tender the order set out below.

CERTIFICATE

It is hereby certified that a copy hereof was on the 25th day of September, 1973, mailed to the person and address listed above.

MOTION

Come the defendants, by counsel, and move the Court to grant them a summary judgment pursuant to C.R. 56.03 of the Kentucky Rules of Civil Procedure on the grounds that there is no genuine issue as to any material fact and the movants are entitled to a summary judgment as a genuine law.

/s/ Eugene L. Mosley
Assistant County Attorney
1614 Kentucky Home Life Building
Louisville, Kentucky 40202
Counsel for Defendants

ORDER—Entered in Court October 8, 1973

On motion of the defendants, by counsel, and the Court being sufficiently advised,

It is Hereby Ordered and Adjudged that the defendants, and each of them, be granted a summary judgment in their favor and that the within action be dismissed at plaintiffs' cost.

/s/ Raymond C. Stephenson
Judge
10/8/73
Date

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EXHIBIT No. 3

JEFFERSON CIRCUIT COURT

COMMON PLEAS BRANCH, FIFTH DIVISION

THOMAS W. AHLMAN, and
CAROL ANN AHLMAN, Husband and Wife - *Plaintiffs*

v.

CHRISTOPHER DURBIN
c/o Jefferson County Police Department
an Individual

JEFFERSON COUNTY COURT
Honorable Louis J. Hollenbach
Jefferson County Court House

JEFFERSON COUNTY FISCAL COURT
Comprised of
Honorable Louis J. Hollenbach
Judge, Jefferson County
c/o Jefferson County Court House
Honorable Maurice W. Archer
Commissioner
Louisville, Kentucky
c/o Jefferson County Court House
Honorable William H. Walden
Commissioner
Louisville, Kentucky
c/o Jefferson County Court House
and

JEFFERSON COUNTY POLICE MERIT BOARD
by and Through Its Members
Honorable J. Stanley Watson, Member
Honorable Shelton Weber, Member
Honorable John Fulton, Chairman Member
Honorable Charles Boone, Member
c/o Fiscal Court Building - - - - *Defendants*

COMPLAINT

1. The plaintiffs herein, are residents of the Commonwealth of Kentucky and were residents of the Commonwealth of Kentucky at the time of the wrongs hereinafter complained of, except the plaintiff Thomas W. Ahlman was on active duty with the United States Army serving in Vietnam at the time of the wrongs hereinafter complained of.

2. All the wrongs hereinafter complained of occurred in Jefferson County, Kentucky within the jurisdiction of the captioned Court and that this Court has jurisdiction to hear and adjudicate the within cause.

3. Defendant, Honorable Louis J. Hollenbach, is sued herein as the Judge comprising Jefferson County Court and not as an individual.

4. Defendants, Honorable Louis J. Hollenbach, Honorable Thomas C. Helm, Honorable Maurice W. Archer, and Honorable William H. Walden, comprising the Jefferson County Fiscal Court are sued herein as the Jefferson County Fiscal Court and are not sued herein as individuals.

5. Defendants, Honorable J. Stanley Watson, Honorable Shelton Weber, Honorable John Fulton and Honorable Charles Boone, comprising the Jefferson County Police Merit Board are sued herein as the Jefferson County Police Merit Board and are not sued herein as individuals.

6. That on or about August 9, 1969, defendant, Christopher Durbin, then an employee of the Jefferson County Court and operating under the guidance and selection of the Jefferson County Court and by and through and with the approval of the Jefferson County Police Merit Board did wrongfully and negligently and without sufficient cause discharge a pistol, to wit, a Magnum revolver, and by reason of negligent operation and handling of said weapon, plaintiff, Carol Ann Ahlman, sustained a severe and trau-

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matic bullet wound to her head which bullet wound has rendered her totally and permanently disabled, required extensive medical care, and the full extent of damages, are unknown at this time as she is still being treated medically.

7. That the Jefferson County Court was negligent in its selection of its employee, Christopher Durbin, and but for this negligence and the concurrent negligence of the Jefferson County Police Merit Board, the aforesaid grievous wrong to plaintiff, Carol Ann Ahlman, would not have happened.

8. That the Jefferson County Police Merit Board was negligent in its selection of Officer Christopher Durbin and negligent in maintaining him on the force and that but for this negligence the aforesaid wrongs would not have happened.

9. That the Jefferson County Court and Jefferson County Fiscal Court were negligent in that they failed to exercise proper supervision of the said employee Christopher Durbin by and through their employees and permitted Officer Durbin to use a privately owned, non issued revolver with ammunition that would not disintegrate upon hard surface impact and that there was available to defendant Durbin, Jefferson County Court and Jefferson County Fiscal Court and the Jefferson County Police Merit Board ammunition of a type that would disintegrate upon impact and that the failure to use this type of ammunition and the failure to supervise the issuance of police weaponry and proper disposition therein is actionable negligence and but for this negligence the wrongs to plaintiffs herein would not have occurred.

10. That by reason of the negligence aforesaid, plaintiff, Carol Ahlman, has sustained severe, grievous and permanent injuries the full extent of which are unknown at this time. That she has been rendered totally incapacitated

for any substantial gainfull employment and incurred numerous and adverse medical bills all to her damage in the sum of Three Hundred and Fifty Thousand Dollars, $350,000.00.

11. That her husband, Thomas Ahlman, joins in this petition and affirms all the allegations of negligence herein above contained and states that by reason of the negligence, he has been deprived of consortium and the loss of services of his wife in the amount of One Hundred Thousand Dollars, $100,000.00.

WHEREFORE, plaintiffs respectfully demand judgment against all the defendants hereinabove named and each of them in the sum Four Hundred and Fifty Thousand ($450,000.00) Dollars, interest at the rate of 7 per cent per annum from the date of judgment, for a trial by jury and for such other relief as the Court may deem proper in the premises.

/s/ DONALD L. SMALLEY
800 Kenyon Building
112 South Fifth Street
Louisville, Kentucky 40202
585-5828
Counsel for Plaintiffs

VERIFICATION OF COMPLAINT

Carol Ann Ahlman and Thomas Ahlman, being duly sworn, do hereby affirm that they have read and examined the foregoing COMPLAINT and that all of the allegations contained therein are true and correct to the best of their knowledge and belief.

/s/ CAROL ANN AHLMAN
Carol Ann Ahlman

/s/ THOMAS AHLMAN
Thomas Ahlman

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STATE OF KENTUCKY
COUNTY OF JEFFERSON

I, Donald L. Smalley, a Notary Public for Jefferson County do hereby certify that the foregoing instrument was this day produced before me by Carol Ann and Thomas Ahlman who duly acknowledged the same to be their voluntary act and deed.

/s/ DONALD L. SMALLEY

Date 7-10-70
My Commission expires: October 30, 1970